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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/732,797

12/09/2003

Michael Katzlinger

14719

7044

47626

7590

02/08/2006

SHELDON & MAK PC  
225 SOUTH LAKE AVENUE  
9TH FLOOR  
PASADENA, CA 91101

EXAMINER

STAFIRA, MICHAEL PATRICK


ART UNIT

PAPER NUMBER

2877

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/732,797	Applicant(s) KATZLINGER ET AL.	
	Examiner Michael P. Stafira	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-19 is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-9 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/23; 1/11/05; 12/9/07</u> | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 5 recites the limitation "the wheel" in line 30. There is insufficient antecedent basis for this limitation in the claim. The independent claim fails to disclose a wheel therefore makes the claim unclear.
4. Claim 6 recites the limitation "the exterior light source" in line 30. There is insufficient antecedent basis for this limitation in the claim. The dependent claim fails to disclose an exterior light source therefore makes the claim unclear.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

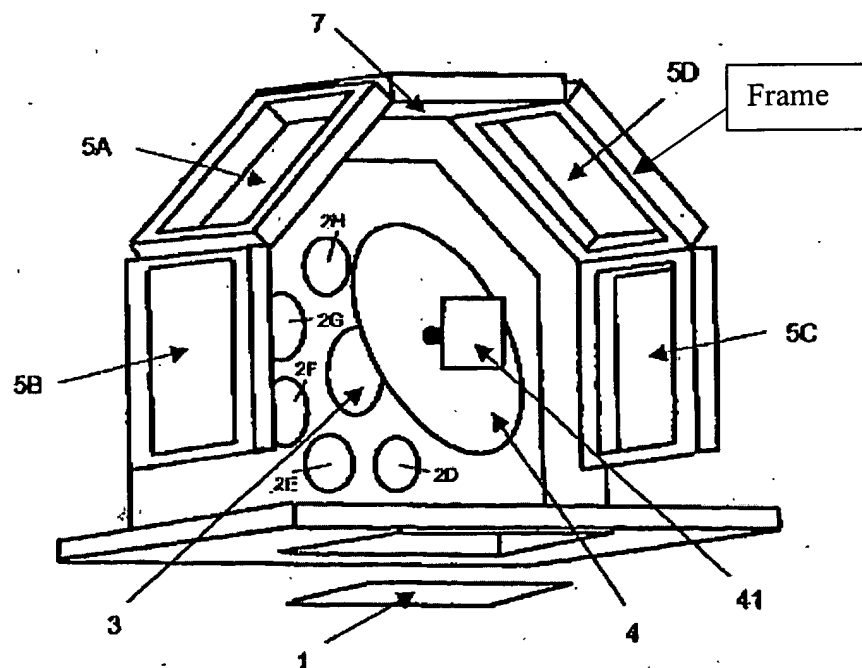
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2, 5, 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torgrip et al. 2004/0065833.

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**Claim 1**

Torgrip et al. 2004/0065833 discloses an array of spaced apart light (Fig. 1, Ref. 2A-2H) sources coupled to a moveable support (Para. 0042) so that one or more of the light sources can be selectively used (Para. 0030); a frame (See Fig. 1 below) for supporting the substrate (Fig. 1, Ref. 5A-5D)(Para. 0038); a detector (Fig. 1, Ref. 3) configured to detect light; an optical relay (Fig 1, Ref. 4) configured to transmit light from at least one of the light sources (Fig. 1, Ref. 2A-2H) to one of the plurality of sample sites (Fig. 1, Ref. 5A-5D) and from the sample site to the detector (Fig. 1, Ref. 3).

**Fig 1**

Torgrip et al. 2004/0065833 discloses the claimed invention except for a substrate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Torgrip et al. 2004/0065833 with a substrate since it was well known in the art

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that a substrate such as glass or other type of material is used for supporting a sample flat for measurement, therefore increasing its transferability and allowing it to be mounted.

Torgrip et al. 2004/0065833 discloses the claimed invention except for a support structure for supporting the frame, the detector and the optical relay. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Torgrip et al. 2004/0065833 with the support structure since it was well known in the art that a support structure provides support to different optical elements, therefore increasing stability of the unit. Further it would be obvious to one skilled in the art to know that the reference of Torgrip et al. 2004/0065833 has some sort of support structure for the frame and optics but for illustrative purposes are not shown.

#### **Claim 2**

Torgrip et al. 2004/0065833 further a selection switch (Para. 0046; processor) coupled to the moveable support.

#### **Claim 7**

Torgrip et al. 2004/0065833 discloses the array of light sources further comprises at least one LED lamp (Para. 0028).

#### **Claim 8**

Torgrip et al. 2004/0065833 further discloses the array of light sources further comprises a plurality of LED lamps, each of the plurality of LED lamps emitting light at a wavelength different than the others of the plurality of LED lamps (Para. 0029).

#### **Claim 9**

Torgrip et al. 2004/0065833 discloses the claimed invention except for a LED lamp

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having a wavelength range from about 450 nm to about 705 nm; and an LED lamp having a wavelength centered at about one of 370, 430, 470, 590, 620, 910 and 960 nm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Torgrip et al. 2004/0065833 with the different wavelength ranges since it was well known in the art that using different wavelengths will excite different features of the sample, therefore increasing the sensitivity of the measurement.

***Allowable Subject Matter***

7. Claims 10-19 are allowed over the prior art of record.
8. Claims 3, 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claims 5, 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
10. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 10, the prior art fails to disclose or make obvious an apparatus for analyzing a plurality of samples in sample sites on a substrate having the optical relay further comprises a beam splitter for splitting light from at least one of the array of light sources into two beams, a first beam being directed to an upper surface of the sample site, and a second beam directed to a lower surface of the sample site, and in combination with the other recited

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limitations of claim 10. Claims 11-16 are allowed by the virtue of dependency on the allowed claim 10.

Regarding claim 17, the prior art fails to disclose or make obvious an apparatus for analyzing a plurality of samples in sample sites on a substrate having the optical relay further comprises: a beam splitter for splitting light from at least one of the array of light sources into two beams, a first beam being directed to an upper surface of the sample site, and a second beam directed to a lower surface of the sample site; and a means for blocking at least one of the first beam and the second beam, and in combination with the other recited limitations of claim 17. Claim 18 is allowed by the virtue of dependency on the allowed claim 17.


Regarding claim 19, the prior art fails to disclose or make obvious an apparatus for analyzing a plurality of samples in sample sites on a substrate having the optical relay further comprising: a beam splitter for splitting light from at least one of the array of light sources into two beams, a first beam being directed to an upper surface of the sample site, and a second beam directed to a lower surface of the sample site; and a first shutter selectively moveable to block the first beam; and a second shutter selectively moveable to block the second beam, and in combination with the other recited limitations of claim 19.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Stafira whose telephone number is 571-272-2430. The examiner can normally be reached on 4/10 Schedule Mon.-Thurs..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Toatley can be reached on 571-272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael P. Stafira  
Primary Examiner  
Art Unit 2877

February 1, 2006